

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5262 of 1999

IN

CRIMINAL APPEAL NO.1089 OF 1997

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and

MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SABIRMIYA ABBASMIYA SIPOY (PATHAN)

Versus

STATE OF GUJARAT

Appearance:

MS NIRMALA J JHALA for applicant

Ms.B.R.Gajjar, learned ADDL.PUBLIC PROSECUTOR
for Respondent No. 1

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.R.TRIPATHI

Date of decision: 29/09/1999

ORAL JUDGEMENT(Per M.R.Callal,J)

The applicant is a convict and is serving sentence for more than one offences. He has applied for release on temporary bail on medical grounds. The order

dt.17.3.99 passed in Criminal Misc. Application No.1814/99 in Criminal Appeal No.1089/97 shows that he was released on temporary bail on 17.2.99 on the basis of the order dt.28.5.98 passed in Criminal Misc. Application No.1782/98. The applicant sought the extension and the same was granted upto 9.4.99. In this Application it has been stated that the previous operation has failed and he wants to be operated by a Private Doctor of his choice. It has been pointed out by the learned Addl.P.P. that the applicant is required to be operated for Harniya and that complications have arisen in this case because the applicant has sustained bullet injury in his thigh at the hands of the Police while he was trying to flee. It has also been pointed out that about 10 other Criminal cases, mostly for offences punishable under Section 379 read with Section 114 of the I.P.C. are pending against him; ofcourse he has been bailed out in those matters. In the facts and circumstances of this case, we do not find it to be a fit case for releasing the applicant on temporary bail. However, we order that let the applicant be treated in the Private Hospital of his choice at his own expenses in Police custody and for that purpose the applicant may be allowed to stay in such Private Hospital which he chooses for his treatment but he would remain guarded by the Police for a period of 30 days from the date on which he is required to be admitted in that Hospital for the purpose of treatment as per the advice of the Private Doctor of applicant's choice. On such intimation being furnished by the applicant to the Jail authorities, he may be allowed to stay for a period of 30 days in Private Hospital or till the date of his discharge from the Hospital after his treatment, whichever is earlier. It is also ordered that while the applicant remains admitted in such Private Hospital for his treatment, the applicant's father and other members of his biological family shall be allowed to have access to him with the permission of the incharge of the Police team who will be guarding the applicant.

With the observations and directions, as above, this Application is disposed of. Rule is made absolute accordingly. Direct service is permitted.